To: Jill M. Pietrini(trademarksCC@sheppardmullin.com)

Subject: U.S. Trademark Application Serial No. 97450960 - HIP-HOP SHORTIES -

71AK-308425

Sent: April 25, 2023 09:30:53 AM EDT

Sent As: tmng.notices@uspto.gov

Attachments

97328694

screencapture-dictionary-cambridge-org-dictionary-english-hip-hop-16820251357021

United States Patent and Trademark Office (USPTO) Office Action (Official Letter) About Applicant's Trademark Application

U.S. Application Serial No. 97450960

Mark: HIP-HOP SHORTIES

Correspondence Address:

JILL M. PIETRINI SHEPPARD MULLIN RICHTER & HAMPTON LLP 1901 AVENUE OF THE STARS, SUITE 1600 LOS ANGELES CA 90067 UNITED STATES

Applicant: Smith, James Todd

Reference/Docket No. 71AK-308425

Correspondence Email Address: trademarksCC@sheppardmullin.com

NONFINAL OFFICE ACTION

Response deadline. File a response to this nonfinal Office action within three months of the "Issue date" below to avoid <u>abandonment</u> of the application. Review the Office action and respond using one of the links to the appropriate electronic forms in the "How to respond" section below.

Request an extension. For a fee, applicant may <u>request one three-month extension</u> of the response deadline prior to filing a response. The request must be filed within three months of the "Issue date" below. If the extension request is granted, the USPTO must receive applicant's response to this letter within six months of the "Issue date" to avoid abandonment of the application.

Issue date: April 25, 2023

Introduction

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant

must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

Summary of Issues

- Advisory regarding Potential Section 2(d) Refusal Prior-Filed Application
- Amendment of Identification of Goods and Services Required
- Disclaimer Required

Advisory regarding Potential Section 2(d) Refusal - Prior-Filed Application

The trademark examining attorney has searched the USPTO database of registered and pending marks and has found no conflicting registered marks that would bar registration under Trademark Act Section 2(d). 15 U.S.C. §1052(d); TMEP §704.02. However, a mark in a prior-filed pending application may present a bar to registration of applicant's mark.

The effective filing date of pending U.S. Application Serial No. 97328694 precedes applicant's filing date of June 9, 2022. *See* attached referenced application. If the mark in the referenced application registers, applicant's mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion between the two marks. *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §\$1208 *et seq.* Therefore, upon receipt of applicant's response to this Office action, action on this application may be suspended pending final disposition of the earlier-filed referenced application.

In response to this Office action, applicant may present arguments in support of registration by addressing the issue of the potential conflict between applicant's mark and the mark in the referenced application. Applicant's election not to submit arguments at this time in no way limits applicant's right to address this issue later if a refusal under Section 2(d) issues.

While applicant is not required to respond to the issue of the pending application, applicant must respond to the requirement(s) below within the response deadline mentioned above to avoid abandonment.

Amendment of Identification of Goods and Services Required

The wording "Entertainment services, namely, providing an online virtual environment for trading music, art images, video clips, clothing, eyewear, all-purpose carrying bags, backpacks, jewelry, watches, phone accessories, licensed merchandise, footwear, belts, trading cards, home furnishings, health and beauty aids, home electronics, consumer packaged goods, food and beverages, toys and games, furniture, pets, household items, and NFTs", "Entertainment services, namely, providing online, non-downloadable virtual goods, namely, music, art images, video clips, clothing, eyewear, all-purpose carrying bags, backpacks, jewelry, watches, phone accessories, licensed merchandise, footwear, belts, trading cards, home furnishings, health and beauty aids, home electronics, consumer packaged goods, food and beverages, toys and games, furniture, pets, and household items, authenticated by non-fungible tokens (NFTs)" and "Providing temporary use of non-downloadable digital media, namely, digital assets, digital collectibles, digital tokens, and non-fungible tokens" in the identification of services is indefinite and must be clarified because it does not specify whether the goods and/or services are online, downloadable or non-downloadable. Moreover, applicant must specify the use and/or purpose of the goods and/or services. See 37 C.F.R. §2.32(a)(6); TMEP §1402.01.

Applicant may substitute the following wording, if accurate:

 International Class 041: Entertainment services, namely, providing an online virtual environment for trading on-line, non-downloadable virtual goods in the nature of music files, art images, video clips **featuring music concerts**, clothing, eyewear, all-purpose carrying bags, backpacks, jewelry, watches, phone accessories, licensed merchandise, footwear, belts, trading cards, home furnishings, health and beauty aids, home electronics, consumer packaged goods, food and beverages, toys and games, furniture, pets, and household items, for use in virtual environments created for entertainment purposes; Entertainment services, namely, providing online, non-downloadable virtual goods, namely, music files, art images, video clips featuring music concerts, clothing, eyewear, all-purpose carrying bags, backpacks, jewelry, watches, phone accessories, licensed merchandise, footwear, belts, trading cards, home furnishings, health and beauty aids, home electronics, consumer packaged goods, food and beverages, toys and games, furniture, pets, and household items for use in virtual environments created for entertainment purposes; Entertainment services, namely, providing online, non-downloadable virtual goods, namely, music files, art images, video clips featuring music concerts, clothing, eyewear, all-purpose carrying bags, backpacks, jewelry, watches, phone accessories, licensed merchandise, footwear, belts, trading cards, home furnishings, health and beauty aids, home electronics, consumer packaged goods, food and beverages, toys and games, furniture, pets, and household items, authenticated by non-fungible tokens (NFTs) for use in virtual environments created for entertainment purposes; Entertainment services, namely, providing virtual environments in which users can interact for recreational, leisure or entertainment purposes; Entertainment services, namely, organizing, arranging and conducting virtual music concert events; Entertainment services, namely, providing temporary use of on-line, nondownloadable digital media, namely, digital assets and digital collectibles in the nature of online non-downloadable image files containing artwork and online non-downloadable visual and audio recordings featuring music authenticated by non-fungible tokens (NFTs) for use in virtual environments created for entertainment purposes

Applicant may amend the identification to clarify or limit the goods and/or services, but not to broaden or expand the goods and/or services beyond those in the original application or as acceptably amended. *See* 37 C.F.R. §2.71(a); TMEP §1402.06. Generally, any deleted goods and/or services may not later be reinserted. *See* TMEP §1402.07(e).

For assistance with identifying and classifying goods and services in trademark applications, please see the USPTO's online searchable *U.S. Acceptable Identification of Goods and Services Manual. See* TMEP §1402.04.

Disclaimer Required

Applicant must disclaim the wording "HIP-HOP" because it is merely descriptive of a characteristic and/or feature of applicant's goods and/or services. *See* 15 U.S.C. §§1052(e)(1), 1056(a); *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1251, 103 USPQ2d 1753, 1755 (Fed. Cir. 2012); TMEP §§1213, 1213.03(a).

The attached evidence from *Cambridge Dictionary* shows this wording means "a type of popular music in which the words are spoken rather than sung and the subject of the songs is often politics or society". Consumers will understand that applicant's music concerts and files consist of hip-hop music. Thus, the wording merely describes applicant's goods and/or services because HIP-HOP describes the type of

music provided by applicant.

Applicant may respond to this issue by submitting a disclaimer in the following format:

No claim is made to the exclusive right to use "HIP-HOP" apart from the mark as shown.

For an overview of disclaimers and instructions on how to provide one using the Trademark Electronic Application System (TEAS), see the Disclaimer webpage.

Response guidelines. For this application to proceed, applicant must explicitly address each refusal and/or requirement in this Office action. For a refusal, applicant may provide written arguments and evidence against the refusal, and may have other response options if specified above. For a requirement, applicant should set forth the changes or statements. Please see "Responding to Office Actions" and the informational video "Response to Office Action" for more information and tips on responding.

Please call or email the assigned trademark examining attorney with questions about this Office action. Although an examining attorney cannot provide legal advice, the examining attorney can provide additional explanation about the refusal(s) and/or requirement(s) in this Office action. *See* TMEP §§705.02, 709.06.

The USPTO does not accept emails as responses to Office actions; however, emails can be used for informal communications and are included in the application record. *See* 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05.

How to respond. File a <u>response form to this nonfinal Office action</u> or file a <u>request form for an extension of time to file a response</u>.

/Christina Moore/ Christina Moore Examining Attorney LO301--LAW OFFICE 301 (571) 270-0853 Christina.Moore@uspto.gov

RESPONSE GUIDANCE

- Missing the deadline for responding to this letter will cause the application to <u>abandon</u>. A response or extension request must be received by the USPTO before 11:59 p.m. Eastern Time of the last day of the response deadline. Trademark Electronic Application System (TEAS) <u>system availability</u> could affect an applicant's ability to timely respond. For help resolving technical issues with TEAS, email <u>TEAS@uspto.gov</u>.
- Responses signed by an unauthorized party are not accepted and can cause the application to abandon. If applicant does not have an attorney, the response must be signed by the individual

applicant, all joint applicants, or someone with <u>legal authority to bind a juristic applicant</u>. If applicant has an attorney, the response must be signed by the attorney.

• If needed, **find** <u>contact information for the supervisor</u> of the office or unit listed in the signature block.

Print: Mon Apr 17 2023 97328694

(4) STANDARD CHARACTER MARK

SHORTI

Mark Punctuated

SHORTI

Translation

Goods/Services

• IC 041. US 100 101 107.G & S: Entertainment services, namely, providing on-line, non-downloadable virtual food and beverage products for use in virtual environments created for entertainment purposes

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Design Code

Serial Number

97328694

Filing Date

20220324

Current Filing Basis

1B

Original Filing Basis

1B

Publication for Opposition Date

20230404

Registration Number

Date Registered

Owner

(APPLICANT) Wild Goose Holding Co., Inc. CORPORATION DELAWARE 260 West Baltimore Pike Wawa PENNSYLVANIA 19063

Priority Date

Disclaimer Statement

Description of Mark

Type of Mark

SERVICE MARK

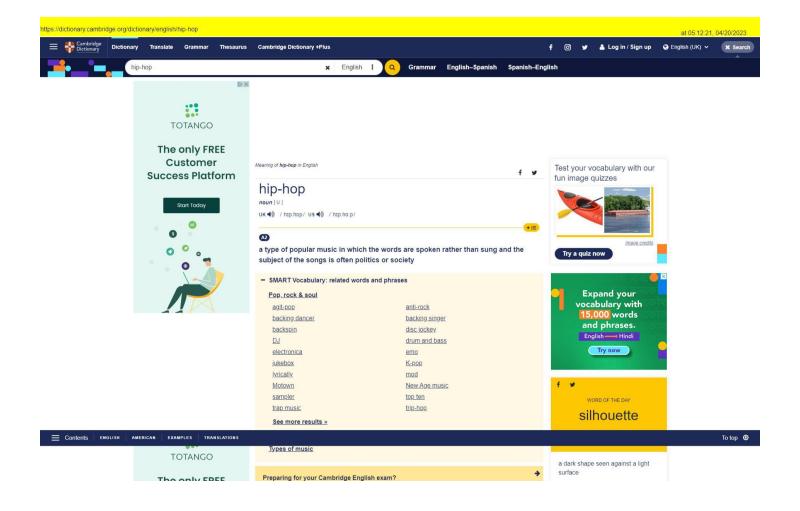
Register

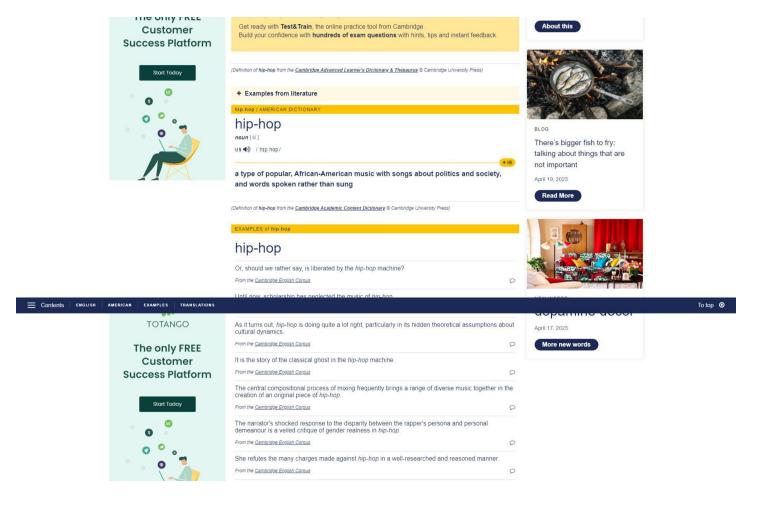
PRINCIPAL

Live Dead Indicator

LIVE

Attorney of Record Douglas Panzer







The most overriding and enduring criticism levied against rap is, of course, sexism; *hip-hop* has been regarded as a heterosexual, masculine domain.

From the Cambridge English Corpus

The fact that only 10% used ready-made loops to make music is questionable, given that two-thirds of the respondents were into electronic music or *hip-hop*.

-rom the <u>Cambridge English Corpus</u>

Making reference to hip-hop and dance music, he suggested that there are different authenticities for different kinds of popular music.

tire <u>Cambridge English Corpus</u>

How is *hip-hop* culture investigated and to what extent are the researchers involved in these investigations reflexive about their impact on the research findings?

From the Cambridge English Corpus

From the mid-1980s through the present, bin-hop culture continues to shape and reflect the values of

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TOTANGO

Contents ENGLISH AMERICAN EXAMPLES TRANSLATIONS

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From the <u>Cambridge English Corpus</u>

Only one of the team members is female, reflecting the gender bias in this area of hip-hop as a whole.

It verifies how quickly hip-hop trends have changed, as well as reinforces how short 'generations' are in popular music.

From the Cambridge English Corpus

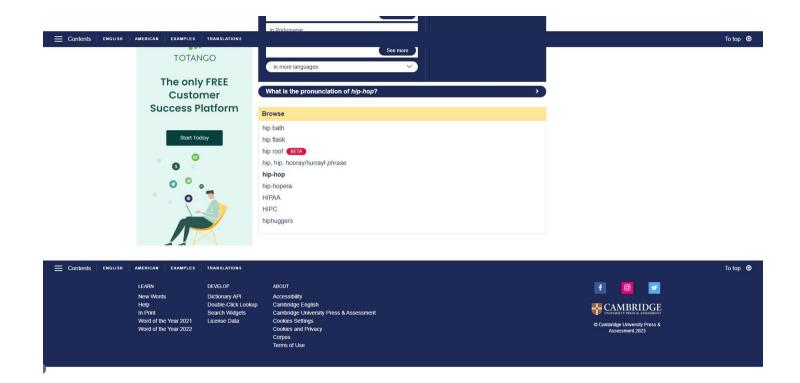
This experience has given me the inspiration to look for spoken word poets who illuminate the influence of rap and *hip-hop* culture on their writing.

From the Cambridge English Corpus

See all examples of hip-hop

These examples are from corpora and from sources on the web. Any opinions in the examples do not represent the opinion of the Cambridge Dictionary editors or of Cambridge University Press or its licensors.





United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued on April 25, 2023 for U.S. Trademark Application Serial No. 97450960

A USPTO examining attorney has reviewed your trademark application and issued an Office action. You must respond to this Office action to avoid your application abandoning. Follow the steps below.

- (1) **Read the Office action**. This email is NOT the Office action.
- (2) **Respond to the Office action by the deadline** using the Trademark Electronic Application System (TEAS). Your response, or extension request, must be received by the USPTO on or before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Otherwise, your application will be <u>abandoned</u>. See the Office action itself regarding how to respond.
- (3) **Direct general questions** about using USPTO electronic forms, the USPTO <u>website</u>, the application process, the status of your application, and whether there are outstanding deadlines to the <u>Trademark Assistance Center (TAC)</u>.

After reading the Office action, address any question(s) regarding the specific content to the USPTO examining attorney identified in the Office action.

GENERAL GUIDANCE

- <u>Check the status</u> of your application periodically in the <u>Trademark Status & Document Retrieval (TSDR)</u> database to avoid missing critical deadlines.
- <u>Update your correspondence email address</u> to ensure you receive important USPTO notices about your application.
- Beware of trademark-related scams. Protect yourself from people and companies that
 may try to take financial advantage of you. Private companies may call you and pretend
 to be the USPTO or may send you communications that resemble official USPTO
 documents to trick you. We will never request your credit card number or social security
 number over the phone. Verify the correspondence originated from us by using your
 serial number in our database, TSDR, to confirm that it appears under the "Documents"
 tab, or contact the Trademark Assistance Center.
- Hiring a U.S.-licensed attorney. If you do not have an attorney and are not required to

have one under the trademark rules, we encourage you to hire a U.S.-licensed attorney specializing in trademark law to help guide you through the registration process. The USPTO examining attorney is not your attorney and cannot give you legal advice, but rather works for and represents the USPTO in trademark matters.